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**CONFIDENTIAL AND FILED UNDER SEAL**

In re: *Brazos v Google*, 6:20-cv-580- ADA; Dkt #126 – Exhibit B

To the Honorable Judge Alan D. Albright:

Plaintiff WSOU Investments, LLC, d/b/a Brazos Licensing and Development (“Brazos”), writes to inform the Court about a factual development relating to Google’s pending 12(b)(1) motion to dismiss for lack of standing, Dkt. 119.

On June 2, 2021, Brazos’ previous counsel produced the “Amendment to Patent Purchase Agreement,” WSOU-GOOALL-0000887 and referred to it in response to Google’s motion to dismiss. *See* Dkt# 126, Exhibit B. Recently, Brazos learned that the version it produced was not the final version of that agreement, which Nokia had in fact produced in response to subpoena in several of the cases currently pending before the Court, including in response to a subpoena served by Google on Nokia. **Attachment 1**, NK\_GOOGLE\_000019–000033. Brazos has now produced the correct version of the amendment and attaches it as an exhibit here. **Attachment 2A**, WSOU-GOOALL-0005471-WSOU-GOOALL-0005485. Brazos alerts the Court to this development both to acknowledge the error and to spell out the implication of the correct version of the Amendment to Google’s pending 12(b)(1) motion to dismiss for lack of standing.

***Background***

On [REDACTED] Nokia<sup>1</sup> and Wade & Company executed a Patent Purchase Agreement (“PPA”). Under the PPA, [REDACTED]

[REDACTED] Nokia and Wade agreed to amend the PPA. As relevant here, the Amendment to the PPA [REDACTED] As explained below, that section differs in material ways between the version previously produced (the “wrong” version) and the version attached as **Attachment 2A** (the “right” or “correct” version).

***Two Versions of the Amendment***

On September 15, 2022, counsel for Nokia alerted Brazos of a later-in-time, executed version of the Amendment to the PPA. Nokia noted that it had produced this executed version to Google with bates range NK\_GOOGLE\_000019–000033 in October 2021.

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<sup>1</sup> “Nokia” collectively refers to the entities Alcatel Lucent, Nokia Solutions and Networks BV, and Nokia Technologies Oy.

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Brazos has since carefully reviewed the differences between the two versions. Most importantly here, the correct version [REDACTED]

Wrong Version (language removed in red)	Right Version (additional language in green and <u>underlined</u> )
[REDACTED]	[REDACTED]

Brazos has confirmed that the version attached here (**Attachment 2A** and produced by Nokia under NK\_GOOGLE\_000019–000033 – **Attachment 1**) was in fact the version executed by the parties. The changes to the Amendment between the two versions reflect revisions suggested by Brazos’s General Counsel, Stuart Shanus on [REDACTED]  
[REDACTED] Mr. Shanus attached a redline to the operative Amendment and explained those redlines by email [REDACTED]

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**Attachment 2.**

Nokia accepted those changes and reverted the Amendment to Mr. Shanus “for [his] execution.” *Id.* Mr. Shanus, on behalf of Brazos, then executed that Amendment and sent it back to Nokia, noting “Countersigned Amendment to PPA attached.” *Id.*

The wrong version is a previous draft of that Amendment, [REDACTED] and never in fact executed by the parties. Brazos has identified an email from Benjamin Rubin, in-house counsel at Nokia, to Mr. Shanus [REDACTED] attaching a clean .pdf draft (**Attachment 3A**) and redline Word version (**Attachment 3B**) of the Amendment that matches the version that Brazos has now produced in this litigation. *See Attachment 3*, WSOU-GOOALL-0005486-WSOU-GOOALL-0005494.

The differences in the two versions directly implicate Google’s motion to dismiss for lack of standing, Dkt. 119. In Google’s pending 12(b)(1) motion to dismiss for lack of standing, Google argued that the assignment of the PPA from Wade to Brazos was *void ab initio* because [REDACTED]

Dkt. 119, at 9.

For the Court’s benefit, Brazos also attaches an appendix identifying the Attachments hereto.

***Brazos acknowledges its error.***

Brazos sincerely apologizes to the Court for its error. Although the wrong version was never in fact executed, the produced Amendment appears to be so: It contains the signatures of all parties to the Amendment. *See* Dkt# 126, Exhibit B, WSOU-GOOALL-0000887-WSOU-GOOALL-0001315.

On learning of the existence of the correct version, Brazos immediately began a diligent investigation into how it could have produced the wrong version, and why that version appears executed. The mistake, so far as Brazos can tell, occurred when Brazos attempted in April 2020 to collect all of the documents relating to the PPA and the subsequent amendments in a single, easily accessible location. The signatures to the Amendment were inadvertently attached in error to an earlier-in-time draft, and that version was ultimately produced.

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Brazos will meet and confer with Google, and coordinate with the Court to address any potential concerns.

Sincerely,

STECKLER WAYNE CHERRY & LOVE, PLLC

/s/ Greg Love  
**GREG LOVE**